

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	:	<b>CRIMINAL NO. 08 - <u>286</u></b>
	:	
<b>v.</b>	:	<b>DATE FILED: May 21, 2008</b>
	:	
<b>FRANK M. DECOTIS</b>	:	<b>VIOLATIONS:</b>
	:	<b>26 U.S.C. § 7201 (tax evasion – 1 count)</b>
	:	<b>26 U.S.C. § 7206(1) (filing false tax</b>
	:	<b>returns – 4 counts)</b>

**INDICTMENT**

**COUNT ONE**

**THE GRAND JURY CHARGES THAT:**

At all times material to this indictment:

1. DeCotis, Inc. was a Pennsylvania corporation incorporated on or about July 1, 1997. DeCotis, Inc. consisted of a restaurant doing business as La Stanza located on Oregon Avenue in Philadelphia, Pennsylvania.

2. Defendant FRANK M. DECOTIS was the President and owner of DeCotis, Inc.

3. Between on or about January 1, 2000, and the date of this indictment, in Philadelphia, in the Eastern District of Pennsylvania, defendant

**FRANK M. DECOTIS,**

willfully attempted to evade and defeat a large part of the tax due and owing by him to the United States of America for the calendar year 2000 through various means. As a result of this course of conduct, defendant DECOTIS evaded the assessment and payment of more than approximately \$50,000 in federal income taxes.

4. As part of this attempt to evade the assessment and payment of federal income taxes, defendant FRANK M. DECOTIS did the following:

a. He received both cash and credit card payments for the services provided at his restaurant.

b. He failed to deposit a significant amount of the cash receipts into the business bank account for DeCotis, Inc.

c. He provided the bank statements and cancelled checks for his business bank account to his accountant to use in preparing the defendant's business and personal tax returns.

d. He knew that the bank statements did not include the majority of the cash receipts from his restaurant business.

e. Instead of depositing all of the cash receipts into the business bank account, defendant DECOTIS diverted the majority of these funds to himself and used them for personal and other expenses.

f. Defendant DECOTIS kept a second set of records consisting of detailed monthly sales ledgers which accurately recorded his cash and credit sales from the business. However, he did not show or provide these records to his accountant for purposes of preparing his tax returns.

g. For the year 2000, the defendant failed to report approximately \$146,789 in total corporate gross receipts.

h. On or about May 21, 2001, defendant DECOTIS filed and caused to be filed with the Director, Internal Revenue Service Center, at Philadelphia, Pennsylvania, a

false and fraudulent U.S. Income Tax Return for an S Corporation, Form 1120S, on behalf of DeCotis, Inc., in which it was stated that gross receipts and sales were \$325,488, when in fact, as defendant DECOTIS well knew, his company's gross receipts and sales were more than what he reported.

i. On or about May 24, 2002, defendant DECOTIS filed and caused to be filed with the Director, Internal Revenue Service Center, at Philadelphia, Pennsylvania, a false and fraudulent U.S. Individual Income Tax Return, Form 1040, in which it was stated that his total partnership and S corporation income was \$32,839, when in fact, as defendant DECOTIS well knew, his total partnership and S corporation income were more than what he reported.

j. Based upon such additional unreported income, defendant FRANK M. DECOTIS owed the United States of America an additional tax of approximately \$50,675.

5. As part of his attempt to evade the assessment and payment of federal income taxes, defendant FRANK M. DECOTIS committed the following affirmative acts, among others:

a. Defendant DECOTIS concealed the true amount of the gross receipts for his restaurant business by providing the accountant who prepared his tax returns with only the bank statements for his business account when he knew that the majority of the cash sales were not deposited into the bank account.

b. Defendant DECOTIS concealed the true amount of the gross receipts for his restaurant business by concealing and failing to provide the accountant who prepared his tax returns with the detailed monthly sales ledgers which accurately recorded his

company's cash and credit sales.

c. Defendant DECOTIS made false and deceptive statements to the accountant who prepared his tax return, leading the accountant to believe that the business bank account captured all of the business income, when in fact, the defendant knew that the business bank statements did not include the cash receipts from the business.

d. On or about May 21, 2001, defendant DECOTIS filed and caused to be filed with the Director, Internal Revenue Service Center, at Philadelphia, Pennsylvania, a false and fraudulent U.S. Income Tax Return for an S Corporation, Form 1120S on behalf of DeCotis, Inc., in which it was stated that gross receipts and sales were \$325,488, when in fact, as defendant DECOTIS well knew, his company's gross receipts and sales were more than what he reported.

e. On or about May 24, 2002, defendant DECOTIS filed and caused to be filed with the Director, Internal Revenue Service Center, at Philadelphia, Pennsylvania, a false and fraudulent U.S. Individual Income tax return, Form 1040, on behalf of himself, in which it was stated that his total partnership and S corporation income was \$32,839, when in fact, as defendant DECOTIS well knew, his total partnership and S corporation income was more than what he reported.

f. Based upon such additional unreported income, defendant FRANK M. DECOTIS owed the United States of America an additional tax of approximately \$50,675.

g. On or about December 19, 2005, defendant FRANK M. DECOTIS and his broker met with two special agents of the Criminal Investigative Division of the Internal Revenue Service of the United States Treasury, who unbeknownst to defendant DECOTIS were

acting in an undercover capacity posing as an interested buyer of DeCotis, Inc. and the buyer's broker.

h. During this meeting, defendant FRANK M. DECOTIS showed the undercover agents handwritten ledgers that he maintained for the calendar year 2005 which reflected total cash and credit card receipts for that year. He also stated he has similar records for prior years.

i. During this meeting, defendant FRANK M. DECOTIS emphasized to the undercover agents that his income tax returns do not reflect the majority of his cash income. Defendant DECOTIS explained to the undercover agents that his accountant uses the business bank statements and cancelled checks to prepare the business tax returns, and that these business bank statements do not include all of the cash receipts from the business. DeCotis specifically stated that "Uncle Sam does not (unintelligible) all they know is what it takes for me to operate."

j. On or about January 23, 2006, defendant FRANK M. DECOTIS met with the two undercover agents at his place of business. During this meeting defendant DECOTIS informed the agents that what he does with the restaurant is his business. He further stated, "I don't want to show anything to the IRS. I don't work for the IRS."

k. During this meeting, defendant FRANK M. DECOTIS informed the undercover agents that the true and correct cash profits can be derived from the sales and expense ledgers. Defendant DECOTIS told the undercover agents that they could take approximately \$250,000 to \$300,000 in cash out of the business without the government knowing about it. He further boasted, "As long as you pay, like I do, monthly something to these

people, they're satisfied."

All in violation of Title 26, United States Code, Section 7201.

**COUNT TWO**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. On or about July 17, 2002, in Philadelphia, in the Eastern District of Pennsylvania, defendant

**FRANK M. DECOTIS**

willfully made and subscribed a United States Income Tax Return for an S Corporation, Form 1120S, for the calendar year 2001, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Director, Internal Revenue Service Center, at Philadelphia, Pennsylvania, which defendant DECOTIS did not believe to be true and correct as to every material matter, in that the return reported gross receipts and sales of \$324,788, when in fact, as defendant DECOTIS well knew, his company's actual gross receipts and sales were more than what he reported in that he had also received cash receipts that had not been deposited into his business bank account.

In violation of Title 26, United States Code, Section 7206(1).

**COUNT THREE**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. On or about March 22, 2006, in Philadelphia, in the Eastern District of Pennsylvania, defendant

**FRANK M. DECOTIS**

willfully made and subscribed a United States Individual Income Tax Return, Form 1040, for the calendar year 2001, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Director, Internal Revenue Service Center, at Philadelphia, Pennsylvania, which defendant DECOTIS did not believe to be true and correct as to every material matter, in that the return reported total income of \$35,278, when in fact, as defendant DECOTIS well knew, his actual total income was more than what he reported.

In violation of Title 26, United States Code, Section 7206(1).



**COUNT FOUR**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. On or about October 17, 2005, in Philadelphia, in the Eastern District of Pennsylvania, defendant

**FRANK M. DECOTIS**

willfully made and subscribed a United States Income Tax Return for an S corporation, Form 1120S, for the calendar year 2004, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Director, Internal Revenue Service Center, at Philadelphia, Pennsylvania, which defendant DECOTIS did not believe to be true and correct as to every material matter, in that the return reported gross receipts and sales of \$292,983, when in fact, as defendant DECOTIS well knew, his company's actual gross receipts and sales were more than what he reported in that he had also received cash receipts that had not been deposited into his business bank account.

In violation of Title 26, United States Code, Section 7206(1).

**COUNT FIVE**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. On or about October 18, 2005, in Philadelphia, in the Eastern District of Pennsylvania, defendant

**FRANK M. DECOTIS**

willfully made and subscribed a United States Individual Income Tax Return, Form 1040, for the calendar year 2004, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Director, Internal Revenue Service Center, at Philadelphia, Pennsylvania, which defendant DECOTIS did not believe to be true and correct as to every material matter, in that the return reported total income of \$42,660, when in fact, as defendant DECOTIS well knew, his actual total income was more than what he reported.

In violation of Title 26, United States Code, Section 7206(1).

**A TRUE BILL:**

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**GRAND JURY FOREPERSON**

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**PATRICK L. MEEHAN**  
**UNITED STATES ATTORNEY**